

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition	:	
of	:	
GLYKESIA GIANNIKOS	:	DETERMINATION DTA NO. 831122

Petitioner, Glykesia Giannikos, filed a petition in protest of an assessed property value. On June 30, 2023, the Division of Tax Appeals issued to petitioner a notice of intent to dismiss petition pursuant to 20 NYCRR 3000.9 (a) (4). The Division of Taxation, appearing by Amanda Hiller, Esq. (Colleen McMahon, Esq., of counsel), submitted a letter in support of the dismissal. Petitioner did not submit a response by July 31, 2023, which date commenced the 90-day period for the issuance of this determination. After due consideration of the documents submitted, Donna M. Gardiner, Supervising Administrative Law Judge, renders the following determination.

ISSUE

Whether the Division of Tax Appeals has jurisdiction over the petition.

FINDINGS OF FACT

1. Petitioner, Glykesia Giannikos, filed a petition with the Division of Tax Appeals on August 26, 2022. The petition challenges a notice of disallowance of a 2021 STAR credit that was disallowed on the basis that petitioner failed to demonstrate that the real property at issue was her primary residence.

2. A statutory notice or conciliation order was not attached to the petition.

3. The petition is signed by Joseph L. Hunsberger who is identified as an attorney-at-law licensed to practice in New York State.

4. A fully executed power of attorney form was not attached to the petition.

5. On November 22, 2022, the Division of Tax Appeals made a written request to petitioner for a fully executed power of attorney form and for a copy of a statutory notice.

6. Petitioner did not provide either document.

7. On June 30, 2023, the Division of Tax Appeals issued to petitioner a notice of intent to dismiss petition. The notice stated, in sum, that the Division of Tax Appeals lacked jurisdiction to review the merits of the petition because it was not in proper form. Additionally, pursuant to Tax Law § 2008 (1), the Division of Tax Appeals does not have jurisdiction over assessed property values such as the one petitioned here.

8. On July 13, 2023, the Division of Taxation (Division) sent a letter in response to the notice of intent to dismiss petition that stated:

“[t]he Division of Taxation is in receipt of the Notice of Intent to Dismiss the petition in the above referenced matter. As the petition submitted was not in proper form, as required by 20 NYCRR 3000.3 and Tax Law § 2008 because the petitioner neglected to include a copy of the statutory notice or conciliation order issued to petitioner, and the power of attorney was not submitted pursuant to 20 NYCRR 3000.2 [sic] the Division is in agreement with the proposed dismissal.”

9. Petitioner did not submit a response to the notice of intent to dismiss petition.

CONCLUSIONS OF LAW

A. The Division of Tax Appeals is a forum of limited jurisdiction (Tax Law § 2008; *Matter of Scharff*, Tax Appeals Tribunal, October 4, 1990, *revd on other grounds sub nom New York State Department of Taxation and Fin. v Tax Appeals Tribunal*, 151 Misc 2d 326 [Sup Ct, Albany County 1991, Keniry, J.]). Its power to adjudicate disputes is exclusively statutory (*id.*). The Division of Tax Appeals is authorized “[t]o provide a hearing as a matter of right, to

any petitioner upon such petitioner's request . . . unless a right to such hearing is specifically provided for, modified or denied by another provision of this chapter" (Tax Law § 2006 [4]).

Tax Law § 2008 (1) limits the jurisdiction of the Division of Tax Appeals to matters "protesting any written notice of the division of taxation which has advised the petitioner of a tax deficiency, a determination of tax due, a denial of a refund or credit application, a cancellation, revocation or suspension of a license, permit or registration, a denial of an application for a license, permit or registration or any other notice which gives a person the right to a hearing in the division of tax appeals under this chapter or other law."

B. Pursuant to 20 NYCRR 3000.3 (b) (7), a petition must be signed by either petitioner or petitioner's representative. In this case, the petition was signed by Joseph L. Hunsberger, but there was no power of attorney form filed authorizing him to represent petitioner in this matter.

C. Pursuant to 20 NYCRR 3000.3 (b) (8), a petition shall contain, "for the sole purpose of establishing the timeliness of the petition, a legible copy of the order of the conciliation conferee if issued; if no such order was previously issued, a legible copy of any other statutory notice being protested." No statutory notice was provided.

D. On November 22, 2022, the Division of Tax Appeals made a written request for petitioner to supply a fully executed power of attorney form and a statutory notice. She failed to do so. Where petitioner fails to correct the petition within the time prescribed, the supervising administrative law judge will issue a notice of intent to dismiss petition (*see* 20 NYCRR 3000.3 [d] [2]). Such notice of intent to dismiss petition was issued on June 30, 2023. Petitioner failed to respond.

E. As the petition was not signed and there was no statutory notice provided, pursuant to Tax Law § 2008 (1), the Division of Tax Appeals lacks jurisdiction over the subject matter of the

petition and, thus, dismissal is warranted (*see* 20 NYCRR 3000.3 [d] [2]; 3000.9 [a] [4] [i]; *Matter of Richardson*, Tax Appeals Tribunal, November 17, 2022).

F. It is ORDERED, on the motion of the supervising administrative law judge, that the petition is dismissed with prejudice as of this date.

DATED: Albany, New York
October 26, 2023

/s/ Donna M. Gardiner
SUPERVISING ADMINISTRATIVE LAW JUDGE